

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2021-291-A - ORDER NO. 2022-58  
FEBRUARY 10, 2022

IN RE: Generic Docket to Study and Review Prefiled	)	ORDER ESTABLISHING
Rebuttal and Surrebuttal Testimony in	)	PROCEDURES FOR
Hearings and Related Matters	)	SUBMISSION OF
	)	SURREBUTTAL
	)	TESTIMONY

The allowance of surrebuttal testimony at the Commission has been questioned in recent months and is one of the matters on which the Commission recently sought comments by parties appearing before the Commission. Comments were received on the subject, both pro and con.

Rebuttal testimony is a matter of right, however, surrebuttal testimony is discretionary, as stated by the South Carolina Supreme Court in the case of *Palmetto Alliance v. South Carolina Public Service Commission*, 282 S.C. 430, 319 S.E. 2d 695 (1984).

Surrebuttal testimony must be viewed as somewhat different from other testimony, because if presented, it comes at a point in a proceeding where the parties have submitted their direct exhibits, and have also had an opportunity to respond to the other parties' testimony and exhibits. The theory and purpose of surrebuttal testimony is to respond to any new matters brought up by the moving party in its rebuttal testimony. However, if rebuttal is limited to responding to other parties' direct testimony, as intended, then surrebuttal testimony should rarely, if ever, be necessary. That is why, historically,

surrebuttal testimony has only been presented as deemed necessary in the discretion of the Commission. To the extent that the Commission believes the privilege has been or is being abused, the Commission has the authority to curb such abuses by limiting the scope or presentation of surrebuttal testimony on a case-by-case basis. Also, the potential for such abuses may be limited in the same manner.

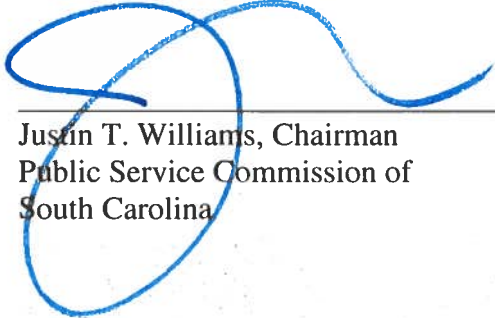
For these reasons, the Commission adopts the following procedures, effective immediately:

- (1) When developing the procedural schedule where pre-filed testimony is anticipated, the Commission Clerk's Office shall establish a deadline wherein an appropriate party may file a Motion to Pre-File Surrebuttal Testimony. The Motion shall be filed after any rebuttal testimony has been pre-filed, and shall provide the Commission with good cause, if any, as to why the party should be allowed to pre-file surrebuttal testimony in the specific case.
- (2) A date shall also be set for the pre-filing of surrebuttal testimony, should the Commission grant the Motion.
- (3) Should the Motion be granted for good cause, the surrebuttal testimony may be pre-filed. If good cause is not shown, the moving party may not pre-file surrebuttal testimony.

Since surrebuttal testimony is discretionary with the Commission, its presentation should be scrutinized and approved or rejected on a case-by-case basis by using the methodology contained in this Order.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman  
Public Service Commission of  
South Carolina